

LAUTERBORN

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2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----

5 ADRIAN SCHOOLCRAFT,

6 Plaintiff,

7 -against-

8

9 THE CITY OF NEW YORK, DEPUTY CHIEF MICHAEL
10 MARINO, Tax ID. 873220, Individually and in
11 his Official Capacity, ASSISTANT CHIEF
12 PATROL BOROUGH BROOKLYN NORTH GERALD
13 NELSON, Tax Id. 912370, Individually and in
14 his Official Capacity, DEPUTY INSPECTOR
15 STEVEN MAURIELLO, Tax Id. 895117,
16 Individually and in his Official Capacity,
17 CAPTAIN THEODORE LAUTERBORN, Tax Id.
18 897840, Individually and in his Official
19 Capacity, LIEUTENANT WILLIAM GOUGH, Tax Id.
20 919124, Individually and in his Official
21 Capacity, ST. FREDERICK SAWYER, Shield No.
22 2567, Individually and in his Official
23 Capacity, SERGEANT KURT DUNCAN Shield No.
24 2583, Individually and in his Official
25 Capacity, LIEUTENANT CHRISTOPHER BROSCHEIT,

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2 Tax Id. 915354, Individually and in his
3 Official Capacity, LIEUTENANT TIMOTHY
4 CAUGHEY, Tax Id. 885374, Individually and
5 in his Official Capacity, SERGEANT SHANTEL
6 JAMES, Shield No. 3004, Individually and in
7 his Official Capacity, and P.O.'s "JOHN DOE"
8 #1-50, Individually and in their Official
9 Capacity, (the name John Doe being
10 fictitious, as the true names are presently
11 unknown) (collectively referred to as "NYPD
12 Defendants"), JAMAICA HOSPITAL MEDICAL
13 CENTER, DR. ISAK ISAKOV, Individually and
14 in his Official Capacity, DR. LILLIAN
15 ALDANA-BERNIER, Individually and in her
16 Official Capacity, and JAMAICA HOSPITAL
17 MEDICAL CENTER EMPLOYEE'S "JOHN DOE" #1-50,
18 Individually and in their Official
19 Capacity, (the name John Doe being
20 fictitious, as the true names are presently
21 unknown),

Defendants.

23 -----
24 111 Broadway
25 New York, New York

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2 November 7, 2013

3 10:10 A.M.

4

5 VIDEO DEPOSITION of THEODORE
6 LAUTERBORN, the Defendant in the
7 above-entitled action, held at the above
8 time and place, taken before Dawn Miller, a
9 Notary Public of the State of New York,
10 pursuant to court order and stipulations
11 between Counsel.

12 * * *

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1 A P P E A R A N C E S

2 LAW OFFICES OF NATHANIEL B. SMITH

3 Attorneys for Plaintiff

4 111 Broadway

5 New York, New York 10006

6 BY: NATHANIEL B. SMITH, ESQ.

7

8 ALSO PRESENT: JOHN LENOIR, ESQ.

9 MAGDALENA BAUZA, VIDEOGRAPHER

10

11

12

13

14 MICHAEL CARDOZO, ESQ. - CORPORATION COUNSEL

15 NEW YORK CITY LAW DEPARTMENT

16 Attorneys for Defendants THEODORE

17 LAUTERBORN and ALL CITY DEFENDANTS

18 100 Church Street

19 New York, New York 10007

20 BY: SUZANNA PUBLICKER METTHAM, ASST.

21 CORPORATION COUNSEL

22 RYAN G. SHAFFER, ASST. CORPORATION

23 COUNSEL

24 FILE NO.: 2010-033074/CONTROL # SSS08994

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1 A P P E A R A N C E S

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3 Attorneys for Defendant JAMAICA HOSPITAL
4 MEDICAL CENTER

5 220 East 42nd Street

6 New York, New York 10017

7 BY: BRIAN OSTERMAN, ESQ.

8

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12 IVONE, DEVINE & JENSEN, LLP

13 Attorneys for Defendant DR. ISAK ISAKOV

14 2001 Marcus Avenue

15 Lake Success, New York 11042

16 BY: BRIAN E. LEE, ESQ.

17

18

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20 CALLAN, KOSTER, BRADY & BRENNAN, LLP

21 Attorneys for Defendant LILLIAN

22 ALDANA-BERNIER

23 One Whitehall Street

24 New York, New York 10004

25 BY: MATTHEW J. KOSTER, ESQ.

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1 A P P E A R A N C E S

2 SCOPPETTA, SEIFF, KRETZ & ABERCROMBIE,
3 ESQS.

4 Attorneys for Defendant DEPUTY INSPECTOR
5 STEVEN MAURIELLO

6 444 Madison Avenue
7 New York, New York 10022

8 BY: WALTER A. KRETZ, ESQ.

9 FILE NO.: 2010-033074

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1 S T I P U L A T I O N S

2

3

4 IT IS HEREBY STIPULATED AND AGREED, by
5 and among the Attorneys for the respective
6 parties hereto that filing and sealing be
7 and the same are hereby waived.

8 IT IS FURTHER STIPULATED AND AGREED
9 that all objections except as to form of
10 the question, shall be reserved to the time
11 of trial.

12 IT IS FURTHER STIPULATED AND AGREED
13 that the within examination may be signed
14 and sworn to before any notary public with
15 the same force and effect as though signed
16 and sworn to before this Court.

17

18 T H E O D O R E L A U T E R B O R N ,
19 having been first duly sworn by Dawn
20 Miller, a Notary Public within and for the
21 State of New York, was examined and
22 testified as follows:

23 MR. SMITH: On the record, it
24 is 10:10. It is November 7th 2013.
25 We are at my offices at 111 Broadway,

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2 answer. Are we staying in the
3 Attorneys' Eyes Only? Are we going
4 back to the non-confidential?

5 MR. SMITH: This is not a
6 confidential document. I don't see
7 any reason to go to the confidential
8 section.

9 Q. These charges and specifications,
10 Paragraph Number 2, says that Schoolcraft
11 is being charged with, among other things,
12 failing to return to duty after being
13 directed to do so by you; do you see that?

14 A. Yes.

15 Q. Am I correct; that when you went
16 into Schoolcraft's home, you told him that
17 he had to come back to the 81st Precinct?

18 A. Yes, from what I remember.

19 Q. Was that direct order by you
20 directing him to return to the 81st
21 Precinct?

22 A. Yes.

23 Q. Why did you order him to return
24 to the precinct?

25 A. Because he failed to comply with

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2 patrol guide procedures on going sick and
3 we needed to answer those out. He left his
4 employment without permission.

5 Q. Because he left his employment
6 without permission, you thought you had the
7 authority to go into his house and order
8 him back to the 81st Precinct?

9 MS. METTHAM: Objection.

10 MR. KRETZ: Objection.

11 A. Yes.

12 Q. Can you identify for me any
13 protocols, procedure, patrol guide rules
14 that gave you the authority to do that?

15 MS. METTHAM: Objection.

16 A. I cannot cite any right now but
17 he left his employment without authority,
18 authorization and he needed to come back
19 and answer those out.

20 Q. What do you mean by, "Answer
21 those out?"

22 A. Why he would disregard following
23 procedures of going sick.

24 Q. Didn't he tell you that he was
25 sick and he wasn't feeling well?

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2 Schoolcraft left the precinct on October
3 31st?

4 A. Exactly when it was, about 1:30,
5 2:00, sometime later in the afternoon,
6 around there.

7 Q. How did you find out that he
8 left?

9 A. The Sergeant came in and told me.

10 Q. What Sergeant?

11 A. I think her name was Huffman,
12 Sergeant Huffman.

13 Q. Was anybody else present for that
14 conversation?

15 A. I don't think so. She come into
16 my office and I was alone. It was just me
17 and her.

18 Q. Where was Inspector Mauriello at
19 that time?

20 A. I don't know, he wasn't in.

21 Q. What did she tell you?

22 A. Basically that Adrian Schoolcraft
23 just got up from his assignment and wanted
24 to leave because he was sick, he proceeded
25 downstairs.

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2 right?

3 A. Yes.

4 Q. What happened next?

5 A. I was waiting for Broschart to
6 get to his house to see the results of
7 that.

8 Q. You were waiting at the 81?

9 A. Yes.

10 Q. Did Broschart eventually report
11 back to you?

12 A. Yes, he did.

13 Q. When did he do that?

14 A. I don't know the exact time but
15 there was a point where he either -- he
16 reached out to me or I called him. From
17 what I could remember, he said he tried
18 knocking on the door, yelling Adrian's
19 name, there was no answer. He interviewed
20 the landlord who said that he had come
21 home. I don't know if he said he saw him
22 come home or he heard him upstairs, and
23 Lieutenant Broschart thought that he saw
24 movement through the front window, he lived
25 on the second floor, but he couldn't be one

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2 hundred percent sure. And I had asked him
3 to go upstairs and knock again because I
4 think Lieutenant Broschart felt good about
5 saying he was upstairs.

6 Q. Meaning that Broschart was
7 confident that Schoolcraft was there?

8 A. He wasn't confident but he felt
9 good that he might be upstairs in his
10 apartment.

11 Q. This report back by Broschart,
12 this happened as the 4 to 12 tour was
13 coming in, right?

14 A. No, when the 4 to 12 tour comes
15 in usually about 3, 3:15, that's when I
16 approached Lieutenant Broschart, so it took
17 time for him to get dressed and do his roll
18 call duties and make his way to the house.
19 So the time frame for that, I couldn't
20 really put one on.

21 Q. What was your tour that day?

22 A. I started at 6:00 in the morning.

23 Q. When was your tour scheduled to
24 end?

25 A. 3:00 in the afternoon.

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2 Q. At that time that you were
3 heading over to Schoolcraft's residence,
4 were you operating under your own
5 initiative or had somebody given you that
6 order?

7 MS. METTHAM: Objection.

8 A. No, I was operating under my own
9 initiative.

10 Q. What happened when you got to
11 Schoolcraft's residence?

12 A. I made an attempt on knocking on
13 the door, yelling for Adrian to come out
14 and talk to me, which there wasn't any
15 response. I spoke, briefly, I think with
16 the landlord and then I waited the arrival
17 of Inspector Mauriello and Chief Marino.

18 Q. How did you know Marino was
19 coming?

20 MS. METTHAM: Objection. You
21 can answer.

22 A. He told me that he was following
23 me there.

24 Q. When you got to the street where
25 Schoolcraft's residence was, who else was

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2 at the scene?

3 A. From what I could remember, there
4 was the Patrol Sergeant from the 104
5 Precinct. He had his driver, myself,
6 Inspector Mauriello, Chief Marino and then
7 I don't know when they started to arrive,
8 Emergency Service was there, the EMT's were
9 there.

10 Q. I'm talking about the time that
11 you arrived. By the time you got to the
12 street where Schoolcraft's residence was,
13 who else was there at that time?

14 A. Right when I got there, it was
15 Lieutenant Broschart, the Patrol Supervisor
16 from the 104 Precinct, his driver. He may
17 have had another sector car there with two
18 other officers around, I'm not one hundred
19 percent sure.

20 Q. You said you spoke to the
21 landlord?

22 A. Briefly.

23 Q. Male or female?

24 A. Male. Although I assume that his
25 wife was there, also.

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2 Q. Who gave you the key?

3 A. The landlord.

4 Q. Which one; the man or the woman?

5 A. I don't know, I don't know.

6 Q. Did they put it --

7 MS. METTHAM: The witness did
8 not finish.

9 A. I don't even know if they exactly
10 gave it to me or the Lieutenant.

11 Q. So when you got to the residence,
12 you went to the door. When you say, "You
13 went up to the door," you went upstairs to
14 the second floor, right?

15 A. Yes.

16 Q. How did you get past the first
17 door on the street level?

18 A. It was opened already.

19 Q. After you knocked on the door,
20 what did you do?

21 A. That's when I think I went down
22 to the see the landlord. At that point, I
23 don't know the sequence of the events;
24 whether I met the landlord first, then I
25 went upstairs and knocked, then he came

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2 A. Not that I recall.

3

Q. Do you recall how the key was
obtained to his door?

5

MS. METTHAM: Objection. Asked

6

and answered. You can answer again.

7

8

Q. I know that but do you remember
who actually got it in hand from the
landlord?

9

A. Yeah, I don't remember.

10

Q. Then what happened after you got
-- "We got the key from the landlord,"
what happened?

11

MS. METTHAM: Objection.

12

A. I don't know the order of events,
how we came together and made the decision
that we were going to make entry into his
house using the key. It was decided that
the Emergency Service guys would go in
first utilizing his key.

13

Q. How were they dressed, the EMS
guys, Emergency ESU guys?

14

MS. METTHAM: Objection. Asked
and answer. You can answer again.

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2 A. That I could see no physical
3 injuries on him.

4 Q. Were disciplinary concerns the
5 only reason you entered Adrian Schoolcraft
6 apartment on October 31st 2009?

A. No, they weren't.

8 MR. SMITH: Objection.

9 Q. What other reason led you and the
10 other officers to enter his apartment on
11 October 31st 2009?

12 MR. SMITH: Objection.

13 Leading.

14 MS. METTHAM: How is that
15 leading?

16 MR. SMITH: You're suggesting
17 the answer to him.

18 A. To be sure that Adrian
19 Schoolcraft was physically okay and that he
20 had not hurt himself.

21 MS. METTHAM: Mr. Smith, if
22 you want to take another five minutes.

23 MR. SMITH: I thought you told
24 me I was done.

25 MS. METTHAM: You have already

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